



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

5720

Ser DNS-36SF/15U106673

3 March 2015

Mr. Andrew Cohen
Koonz, McKenney, Johnson, DePaolis & Lightfoot LLP
2001 Pennsylvania Avenue NW, Suite 450
Washington, DC 20006

Dear Mr. Cohen:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT REQUEST;
FOIA CASE NUMBER DON-NAVY-2014-003007

This is in reference to your Freedom of Information Act (FOIA) request dated February 4, 2014 (copy attached). Your request was received in our office on in the same day and assigned FOIA Case Number DON-NAVY-2014-003007.

We note that your request contains seven segregated parts and will be addressed in the order of your request.

First, you requested Aaron Alexis' Naval personnel file. In this instance, due to Mr. Alexis's previous military service and his position as a contractor employee in the direct lead-up to the shooting that occurred on September 16, 2013, we interpreted your request as a request for records related to his prior military service and his employment immediately preceding September 16, 2013.

Please be advised that there are still pending investigations regarding the subject matter in question. In addition to the (now completed) JAGMAN investigation, Naval Criminal Investigative Service (NCIS) and the Federal Bureau of Investigation (FBI) are both actively conducting investigations regarding the shooting that occurred on September 16, 2013. Therefore, we needed to coordinate with NCIS with regard to any responsive records.

NCIS and the FBI advised that the Official Military Personnel File (OMPF) of Mr. Alexis was not subject to their investigations.

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However, Mr. Alexis's OMPF was subject to the JAGMAN Investigation. As a result of the completion of the JAGMAN Investigation, Navy Personnel Command (NPC) conducted a review of the responsive record and provided a releasable copy to the Associated Press on May 7, 2014. This document is also publicly posted in the Department of the Navy Reading Room, viewable at <http://foia.navy.mil>. The OMPF consists of documents that reflect a member's fitness for service, performance of duties, and entitlements, which satisfy both statutory and corporate requirements, and affect or influence a member's career and benefits. The variety of documents includes information about the accession, training, education, performance, discipline, decoration and awards, assignments, duties, casualty status, and separation/retirement of the Navy member. Compensation, physical condition, medical treatment, personal documents, and non-service related documents might be maintained as part of the OMPF record if deemed necessary and appropriate by the Navy. We consider release of the OMPF to satisfy generalized requests for records related to an individual's military service.

We note that information from records responsive to your request was released in the JAGMAN report. Please be advised, however, that NCIS and FBI were consulted with regard to their ongoing investigations prior to the release of the JAGMAN report. As a result, the only releasable portions of these records would be those exact portions referenced in the JAGMAN report, and only to the extent that such information has already been released. In light of this determination, there is no reasonably segregable information contained within the requested documents.

Secondly, you requested copies of "Navy policies, practices, and procedures relating to the security of and access to Building 197." We note that records responsive to your request were released as part of the JAGMAN report (publicly posted in the Department of the Navy Reading Room, viewable at <http://foia.navy.mil>). Please be advised that NCIS and the FBI were consulted with regard to their investigations prior to the release of the JAGMAN report and that those investigations remain ongoing. A review of potentially responsive documents not contained within the previously released JAGMAN report of investigation is also underway.

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In the event additional responsive records are identified, release determinations will be made and releasable portions of these records will be publicly posted on the aforementioned Department of the Navy Reading Room webpage.

Third, you requested surveillance video of Building 197 on September 16, 2013. We contacted NCIS and the FBI, and they confirmed that those specific records were collected as part of their respective investigations, and confirmed that disclosure of those records could be reasonably expected to interfere with their ongoing investigations. In light of this, we have determined that the records remain exempt from disclosure under 5 U.S. C. § 552(b)(7)(a).

Fourth, you requested copies of "reports of any investigations relating to the shootings on September 16, 2013." We note that records responsive to your request have previously been released as part of the JAGMAN report (publicly posted in the Department of the Navy Reading Room, viewable at <http://foia.navy.mil>). Please be advised that NCIS and the FBI were consulted with regard to their investigations prior to the release of the JAGMAN report and that those investigations remain ongoing. A review of potentially responsive documents not contained within the previously released JAGMAN report of investigation is also underway. In the event additional responsive records are identified, release determinations will be made and releasable portions of these records will be publicly posted on the aforementioned Department of the Navy Reading Room webpage.

Fifth, in attempt to locate records responsive to your request for any materials relied on or presented in briefings or other meetings with victims and family members of victims of the shootings on September 16, 2013, including but not limited to PowerPoint presentations, this office contacted all potential cognizant commands including the Office of the Commander, Navy Installations Command; the Commander, Washington Navy Yard Shooting Recovery Task Force; the Naval Criminal Investigation Service, and the Office of the Judge Advocate General (OJAG). After consultation with these various commands, no records responsive to your request were located.

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Sixth, regarding any FOIA requests received relating to Aaron Alexis or the shooting on September 16, 2013, a search of our offices for potentially responsive documents produced approximately 38 documents. Upon review, these documents contain personally identifiable information (e.g., names, phone numbers, and email addresses), which is exempt from disclosure under 5 U.S.C. § 552(b)(6), since release of this information would result in a clearly unwarranted invasion of their personal privacy, the portions containing this information has been redacted. Therefore, the remaining portion in redacted form is released to you.

Seventh, with regard to records relating to any Navy records already released in response to FOIA requests concerning Aaron Alexis or the shootings on September 16, 2013, these documents are also publicly posted in the Department of the Navy Reading Room, viewable at <http://foia.navy.mil>.

Because your request is partially denied, you are advised of your right to appeal the denial of your request by writing to:

Office of the Judge Advocate General
1322 Patterson Ave, SE, Ste 3000
Washington Navy Yard, DC 20374-5066

Your appeal must be postmarked within sixty calendar days from the date of this letter. A copy of your initial request and this letter must accompany the appeal. The appeal should be marked "FREEDOM OF INFORMATION APPEAL" both on the envelope and the face of the letter. In order to expedite the appellate process and ensure full consideration of your appeal, your appeal should contain a brief statement of the reasons you believe this decision to be in error.

Additionally, the 2007 FOIA amendments directed the Chief FOIA Officer of each agency to designate one or more FOIA Public Liaisons. Please be advised that the DON FOIA Public Liaison is available to assist in disputes between the requester and the agency. The role of the Liaison is to provide FOIA requesters with an avenue to raise concerns about the service received from a Navy Requester Service Center.

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You may write to the DON FOIA Public Liaison at Department of the Navy Chief Information Office (DON CIO), 1000 Navy Pentagon, Washington, DC 20350-1000. Alternately, you may contact the DON FOIA Public Liaison via telephone at (703) 695-1297, via fax at (703) 614-4388, or via email at DONFOIAPublicLiaison@navy.mil.

In this instance, the fees associated with the processing of this request were below the minimum threshold and have not been assessed. Please be advised, however, that fees, fee categories, and fee waivers are determined on a case-by-case basis, and a previous determination has no influence on future determinations.

Questions regarding the action this office has taken during the processing of your request may be directed to our FOIA Service Center at (202) 685-0412.

Sincerely,

A handwritten signature in black ink, appearing to read "Robin Patterson". The signature is fluid and cursive, with the first name "Robin" and last name "Patterson" clearly distinguishable.

Robin Patterson

Head, DON PA/FOIA Program Office